

PROHIBITING THE TRANSPORTATION OF LETHAL MUNITIONS IN INTERSTATE OR FOREIGN COMMERCE

JUNE 30, 1952.—Referred to the House Calendar and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 1429]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1429) to prohibit the transportation in interstate or foreign commerce of lethal munitions except when movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, line 15, section 3 is amended to read as follows:

SEC. 3. The transportation in interstate or foreign commerce of lethal munitions is prohibited except when the movement is arranged by, or on behalf of, the United States of America or an instrumentality thereof: *Provided, however,* That this Act shall not apply to the transportation of articles procured by the Department of the Army, Navy, or Air Force for transfer on a grant or reimbursable basis pursuant to any foreign-assistance program authorized by the Congress.

The purpose of this bill is to prohibit the transportation in interstate or foreign commerce of lethal munitions except when the movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof.

This bill is intended to protect citizens against the hazards of transportation of the most dangerous type of war munitions. At the present time when those munitions are made for private profit the public is not afforded the benefit of the rigorous inspection and process control exercised by our ordnance services when war munitions are manufactured for the use of our own Armed Forces.

Although it is unlikely that we shall ever know the cause of the terrible explosion which took place at South Amboy, N. J., in May 1950 (everyone involved in the loading operation was killed), it is

entirely possible that it would not have occurred had this legislation been on the statute books. While it is true that the explosives involved in the South Amboy disaster consisted in part of 1,800 cases of dynamite destined for delivery to a private irrigation project in Afghanistan, the grim fact remains that the great bulk of the explosives were war munitions, namely, 8,000 cases of antitank mines and 1,000 cases of antipersonnel mines manufactured in the United States, without any control or inspection whatsoever by our ordnance services, for shipment to a foreign country.

Furthermore, your committee believes that this legislation will effectively forestall the development in this country of a private munitions industry organized to sell munitions to foreign countries or to any foreign agency or faction that will buy them. The companies that have engaged in this business in the past have had a sordid history. Still fresh in our minds are the shocking facts disclosed several years ago by the Special Senate Committee on Investigation of the Munitions Industry. These companies that engaged in the business of selling lethal munitions to foreign interests have been an unmitigated nuisance to the Army and Navy in peacetime and worthless to those Departments as war contractors. They are un-American in concept and a potential source of friction with friendly countries.

Your committee is reliably informed that at least one European armament firm is considering the establishment of a plant in the United States to manufacture weapons of war. It is believed that this legislation, if enacted into law, will prevent the establishment in this country of a foreign-owned or foreign-controlled munitions industry which undoubtedly would engage in the unsavory business of selling its death-dealing products on the international market to anyone with cash on the barrel head.

Concern has been expressed by some of the Government agencies to whom the bill was submitted for comment that the definition of "lethal munitions" contained in section 2 might be construed to prohibit the interstate transportation of explosives or explosive devices intended for legitimate civilian use, such as ammunition intended for use by police or hunters, or commercial explosives, such as dynamite, which are used in the clearing of lands, in the mining industry, and in construction operations. Therefore, the Senate committee has amended the bill and rewritten section 2 to meet these objections. The new definition of "lethal munitions" follows closely the definition suggested by Senator Ecton, author of the bill, and it meets with the approval of the Department of Defense.

Your committee knows of no objection to this legislation. The Department of the Army, speaking for the Department of Defense, including the Munitions Board, states that it is in complete accord with the purpose of the bill, and the Treasury Department, which represents the views of the United States Coast Guard, advises your committee that it is in accord with the objectives of the proposed legislation.

Reports from those two agencies and from various other agencies to whom the bill was submitted for comment are set forth in full below for the information of the House. This legislation has the approval of the Bureau of the Budget.

Your committee has amended the bill as suggested by the Secretary of the Army under date of June 23, 1952.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., January 5, 1952.

Hon. EDWIN C. JOHNSON,
*Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.*

MY DEAR SENATOR JOHNSON: Reference is made to your letter of May 4, 1951, asking for the comments of this Department on S. 1429, a bill to prohibit the transportation in interstate or foreign commerce of lethal munitions except when movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof.

In the opinion of this Department, S. 1429, if enacted would restrict and in many cases prevent the distribution of explosives required for mining, construction, and other activities of vital importance to the national economy and welfare. As defined in section 2, the term "lethal munitions" appears to cover all types of blasting powders and other explosives used in the mineral industries, as well as the ammunition, shells, mines, rockets, and other matériel specifically included. None of these lethal munitions could be shipped in interstate commerce except when the movement is arranged for, or on behalf of, the United States. This then would prohibit manufacturers and dealers from shipping blasting powders and explosives to consumers who lived beyond the boundaries of the State in which the manufacturer or dealer was located. Similar interference would also arise with respect to interstate shipments of ammonium nitrate, which is used in peacetime principally as a fertilizer. In view of its wartime use as an explosive ingredient, as well as the serious explosions which have occurred in recent years, this material appears to be within the class of lethal munitions. Such a strict law seems quite unnecessary in times of peace, and if constitutional, it would work severe hardships on private industry.

In the event of war when more stringent measures are necessary for control of explosives generally, there is existing legislation which becomes operative upon a declaration of war. This is the Federal Explosives Act of December 26, 1941 (55 Stat. 863; 50 U. S. C., secs. 121-143), as amended, which, among other things, regulates the distribution of all types of explosives. This act may also be invoked upon the issuance by the President of a proclamation declaring that there exists a national emergency requiring the application of the provisions of the act to provide for the national defense and security. Such a proclamation has not been issued in connection with the present emergency.

In the circumstances, I do not recommend the enactment of S. 1429. In all events the words "or adapted" should be deleted in line 7, page 1 of the measure.

The Bureau of the Budget has advised that it has no objection to the presentation of this report to your committee.

Sincerely yours,

OSCAR L. CHAPMAN,
Secretary of the Interior.

DEPARTMENT OF THE ARMY,
Washington, D. C., June 23, 1952.

Hon. ROBERT CROSSER,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to S. 1429, Eighty-second Congress, a bill to prohibit the transportation in interstate or foreign commerce of lethal munitions except where movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof, which passed the Senate on February 25, 1952. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The Department of the Army, on behalf of the Department of Defense, has no objection to the purposes to which this bill is directed, since it in substance reflects the views expressed by the Secretary of the Army in a letter to Senator Johnson, chairman, Committee on Interstate and Foreign Commerce, United States Senate, dated August 17, 1951. Since that time, however, the Department of Defense has determined, from further study, that an additional amendment should be made to the introduced bill in order that it will not interfere with or impair the successful prosecution of congressionally approved foreign mutual

assistance policy as established by the Mutual Security Act. The development of plans for international defense requires an expeditious flow of military supplies and equipment not only to the United States forces but also to the forces of those countries with which we are joined in a common defense effort. As stated hereinabove, Congress has recognized the necessity for mutual military assistance and is aware that a large proportion of the lethal munitions upon which our allies are dependent is being produced and shipped from industrial facilities within this country.

For the above-stated reasons, it is felt that section 3 of S. 1429 should be further amended so as to prevent any possibility of restriction upon the production and movement of the arms which are so desperately needed by the free countries of the world and for which Congress is appropriating large sums of public funds. The Department of Defense therefore has no objection to the favorable consideration of this bill, if section 3 is amended as follows:

"SEC. 3. The transportation in interstate or foreign commerce of lethal munitions is prohibited except when the movement is arranged by, or on behalf of, the United States of America or an instrumentality thereof: *Provided, however,* That this Act shall not apply to the transportation of articles procured by the Department of the Army, Navy, or Air Force for transfer on a grant or reimbursable basis pursuant to any foreign assistance program authorized by the Congress."

This amendment would not affect the principal intent of S. 1429 which is to require additional safety measures which would assist in preventing disastrous munition explosions but would enable the Department of Defense and the Mutual Security Agency more expeditiously to carry out their assigned portions of the foreign assistance programs.

Enactment of this bill will result in no foreseeable expenditure of public funds. This report has been coordinated among the departments and boards in the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has been consulted and advises that there is no objection to the submission of this report for the consideration of the Congress.

Sincerely yours,

FRANK PACE, Jr.,
Secretary of the Army.

TREASURY DEPARTMENT,
Washington, June 20, 1952.

HON. ROBERT CROSSER,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your request for the views of the Treasury Department on S. 1429, to prohibit the transportation in interstate or foreign commerce of lethal munitions except when movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof.

The proposed legislation would exclude from interstate or foreign commerce all lethal munitions except when the movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof. The term "lethal munitions" would include all articles, implements, or devices which (1) consist of or contain explosive, combustible, or toxic substances, (2) are used in warfare or training therefor, and (3) are designed or adapted to cause destruction of personnel, equipment, or facilities. The proposed legislation would not prohibit the transportation in interstate or foreign commerce of small arms ammunition of types normally used for hunting; ammunition for use of State or municipal police forces; pyrotechnic devices for signaling, display, or illumination; or explosive, combustible, or toxic materials designed and intended for commercial use in agriculture, mining, or industry generally.

The Treasury Department would have no objection to enactment of the bill.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, April 1, 1952.

Hon. ROBERT CROSSER,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (S. 1429) to prohibit the transportation in interstate or foreign commerce of lethal munitions except when movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof.

The term "lethal munitions" is defined in the bill to mean:

"* * * all projectiles [sic] and propelling charges therefor of a caliber of at least twenty millimeters, land and naval mines, aircraft bombs, naval torpedoes, military rockets (whether free or guided), atomic weapons, hand and rifle grenades, when containing explosive, combustible, or toxic substances, or when designed to contain such substances, and all other articles, implements, or devices which (1) consist of or contain explosive, combustible, or toxic substances, (2) are used in warfare or training therefor, and (3) are designed or adapted to cause destruction of personnel, equipment, or facilities; except small arms ammunition of types normally used for hunting or sporting use, ammunition of any type for the use of State or municipal police forces, pyrotechnic devices for signaling, display, or illumination, and explosive, combustible, or toxic materials, or devices containing explosive, combustible, or toxic materials, designed and intended for commercial use in agriculture, mining, or industry generally."

The measure seems adequate to accomplish its obvious purpose and the Department of Justice finds no objection to its enactment.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

A. DEVITT VANECH,
Deputy Attorney General.

INTERSTATE COMMERCE COMMISSION,
Washington 25, April 16, 1952.

Hon. ROBERT CROSSER,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

MY DEAR CHAIRMAN CROSSER: Your letter of February 28, 1952, addressed to the Chairman of the Commission and requesting comments on S. 1429, to prohibit the transportation in interstate or foreign commerce of lethal munitions except when movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof, which was passed by the Senate on February 25, 1952, has been referred to our legislative committee. After careful consideration by that committee, I am authorizing to submit the following comments in its behalf:

S. 1429 would prohibit the transportation in interstate or foreign commerce of lethal munitions except when the movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof. Exceptions from this prohibition are provided in the case of explosives or explosive devices intended for legitimate civilian use.

By the Transportation of Explosives Act (U. S. C., title 18, sec. 835), it is the duty of the Interstate Commerce Commission to "formulate regulations for the safe transportation within the limits of the jurisdiction of the United States of explosives and other dangerous articles, including flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances, which shall be binding upon all common carriers engaged in interstate or foreign commerce which transport explosives or other dangerous articles by land, and upon all shippers making shipments of explosives or other dangerous articles via any common carrier engaged in interstate or foreign commerce by land or water."

Since section 4 of the proposed act states that its provisions shall not affect other requirements of Federal or State law or regulations issued pursuant thereto, it is assumed that the "explosives regulations" administered by this Commission will not be affected. As stated in the Senate report, S. 1429 is intended to protect citizens against the hazards of transportation of the most dangerous type of war

munitions. We are not informed as to whether the conditions affecting the manufacture of munitions makes it desirable that the transportation thereof in interstate or foreign commerce be prohibited "except when the movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof," and are therefore not in a position to express a helpful opinion with respect to the merits of the proposed act.

Respectfully submitted.

WALTER M. W. SPLAWN,
Chairman, Legislative Committee.
CHARLES D. MAHAFFIE.
JOHN L. ROGERS.

DEPARTMENT OF STATE,
Washington, April 16, 1952.

Hon. ROBERT CROSSER,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

MY DEAR MR. CROSSER: I refer to your letter of February 28, 1952, transmitting for the comment of the Department of State a copy of S. 1429, a bill to prohibit the transportation in interstate or foreign commerce of lethal munitions except when movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof. The receipt of your letter was acknowledged by the Department's letter of March 3, 1952.

The Department notes that, in introducing this bill initially on August 11, 1950, Senator Ecton explained that its object was "to protect innocent citizens against recurrence of another disaster like the recent one at South Amboy, N. J." (Congressional Record, August 11, 1950, No. 159, p. 12465.)

The Department is fully in accord with, and heartily endorses, Senator Ecton's objective as noted above. It is recommended, however, that the following amendment be made to section 3 of the bill:

"The transportation in interstate or foreign commerce of lethal munitions is prohibited except when the movement is arranged for, or on behalf of, the United States of America or an instrumentality thereof and provided that this Act shall not apply to the transportation of articles procured by the Department of the Army, Navy, or Air Force for transfer on a grant or reimbursable basis pursuant to any foreign-assistance program authorized by Congress."

As you know, title to material transferred on a reimbursable basis pursuant to section 408 (e) of the Mutual Defense Assistance Act of 1949, as amended, passes to the recipient country while such material is still in the United States. Title to certain of the material transferred to foreign governments as grant aid also passes when the goods are loaded aboard ship in United States seaports. These goods are all procured by agencies of the Department of Defense and are manufactured and prepared for shipment in accordance with the same safeguards as apply to armaments procured for the United States armed services. The Department believes the proposed amendment to section 3 is necessary to permit the continuance of these arrangements regarding passage of title and will not in any way compromise the objectives of the bill as stated by Senator Ecton.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

JACK K. McFALL,
Assistant Secretary
(For the Secretary of State).